

PROCUREMENT DIVISION

Instructions: Read the checklist in its entirety before you print the Contract. This Checklist is a guide to assist you in preparing and submitting your contract.
All items that are marked must be completed and returned with the contract.

1.	<input checked="" type="checkbox"/>	Review the contract for accuracy.
2.	<input checked="" type="checkbox"/>	Federal Tax Identification Number or Social Security Number (last 4 digits) Data Universal Numbering System (DUNS) Number Complete Section
3.	<input checked="" type="checkbox"/>	Print one (1) set
4.	<input checked="" type="checkbox"/>	IRS Federal Tax Exemption Submit one copy of the IRS Federal Tax Exemption 501 (c) (3) and Tax Exempt Status Complete Section
5.	<input checked="" type="checkbox"/>	Sign with original signatures on last page. All documents requiring the signature of the authorized representative for the Service Provider must be an original signature The same representative must sign each copy of the Overdue Tax Letter, Conflict of Interest, E-Verify and Contract .
6.	<input checked="" type="checkbox"/>	Conflict of Interest Section Insert the Conflict of Interest Policy on your letterhead/stationary after Section Include your original signature.
7.	<input checked="" type="checkbox"/>	Overdue Taxes Section Prepare the letter on your letterhead/stationery. Make the necessary changes to reflect your company. Insert the name(s) of the authorized official(s) appropriate for your company. Include your original signature. Insert an Overdue Tax Letter after Section
8.	<input checked="" type="checkbox"/>	State Certifications Complete the State Certification.
9.		E-Verify Declaration Complete the E-Verify Declaration. Sign and Date. Signature must be an original signature of the authorized representative for the Service Provider. Include original signed E-Verify Declarations. Insert in E-Verify after Section
10.	<input checked="" type="checkbox"/>	Submit one copy of the most current Certificate of Insurance for the item(s) marked. Mecklenburg County must be listed as the holder and as additional insured with Commercial General Liability on the certificate. <div style="margin-left: 20px;"> <input type="checkbox"/> Automobile Liability <input type="checkbox"/> Commercial General Liability <input type="checkbox"/> Workers' compensation (If less than three employees a statement on your company letterhead is required.) <input type="checkbox"/> Professional Errors and Omissions <input type="checkbox"/> Sexual Abuse and Molestation <input type="checkbox"/> Network Security and Privacy Liability <input type="checkbox"/> Fidelity Bond </div>
11.	<input type="checkbox"/>	Submit the required document specific to you or your company. Annual Financial Compilation Annual Financial Statement
12.	<input checked="" type="checkbox"/>	Submit one copy of the most current Regulatory Licensure if applicable.
13.	<input type="checkbox"/>	Vendor Packet Complete the required forms and submit as noted in the instructions.
14.	<input type="checkbox"/>	Submit one copy of the most current Articles of Incorporation or Certificate of Authority.
15.	<input checked="" type="checkbox"/>	The contract must be notarized by a Notary Public.
16.	<input checked="" type="checkbox"/>	Copies or facsimiles of the contract will not be accepted.
17.	<input checked="" type="checkbox"/>	Return contract signed as an original and notarized. An electronic version of the contract will be forwarded to you via email.
18.	<input checked="" type="checkbox"/>	Physical Address: Mecklenburg County Government Procurement Division Financial Services Department 3205 Freedom Drive, Suite 101 Charlotte, NC 28208 (You may drop off the completed contract at the address above.)
For Office Use Only: <ul style="list-style-type: none"> • Service Provider Name _____ • Date Returned _____ • Attorney Reviewed/Approved Date _____ • Department Director/Project Manager or Designee Reviewed/Approved Date _____ • Contract Manager Date Reviewed _____ • Contract Analyst _____ • <input type="checkbox"/> Independent Contractor Checklist Completed 		



STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

This Contract, entered into as of the _____ day of _____, 20____ by and between the COUNTY OF MECKLENBURG, hereinafter referred to as "County", through its _____ Department, hereinafter referred to as "Department" and _____, hereinafter referred to as "Service Provider".

Service Provider Identification:

Address:

Telephone:

Contact Person:

TERM OF CONTRACT: _____

WITNESSED

WHEREAS, the County, through its _____ Department, wishes to purchase certain services from the above-designated Service Provider; and

WHEREAS, the Service Provider wishes to provide certain services to the County, through its _____ Department.

NOW, THEREFORE, in consideration of the premises and the sums to be paid by the County to Service Provider, the County does hereby enter into this Contract with Service Provider to provide services of the type hereinafter described and upon the following conditions:

SECTION I – PROGRAM RESPONSIBILITIES OF BOTH PARTIES

A. FOCUS AREA

This Contract aligns with the focus area of Community Health and Safety whereby all Mecklenburg County residents can become self-sufficient and have equal access to services.

B. DEPARTMENT RESPONSIBILITIES

1. Complete the Contract Request Form and forward to the Contract Manager if any fiscal and/or programmatic changes in the Contract are needed.
2. The Department Director or designee approves final change(s) in the Contract.
3. Provide a Project Manager who will manage the programmatic area of the Contract.

The Project Manager will:

- a. Be the point of contact for the Service Provider.
- b. Maintain communication with Service Provider and Contract Analyst.
- c. Keep Service Provider and Contract Analyst informed of any policy changes.
- d. Monitor the Contract. Monitoring includes, but is not limited to: review of monthly progress reports forwarded by Service Provider or Project Manager, review of quarterly expenditures, random sampling of invoices and payments, may randomly conduct announced and unannounced site visits, annual monitoring to include review of customer/client/patient records, eligibility, attendance/participation, expenditures and review of contract procedures.
- e. Attend scheduled meetings with Contract Analyst and Service Provider to discuss Contract programmatic and/or administrative matters.

C. SERVICE PROVIDER RESPONSIBILITIES

- 1.
- 2.
3. Make a good faith effort to include environmental considerations supporting waste reduction, recycling and purchase recycled and other environmentally preferable products whenever practical.
4. Keep informed of and comply with all applicable Federal and State laws, regulations, policies, and standards governing the service program and of any alterations to these.
5. Conduct a criminal background check for all employees providing services under this contract and require all such employees to submit to drug screening at time of employment and/or random drug screening during employment annually.
6. Comply with the Mecklenburg County Tobacco Use Policy, which prohibits County contractors and others performing services for the County, including Service Provider, from smoking, using smokeless tobacco (chew, dip, snuff) and/or electronic or other nicotine delivery devices

(electronic cigarettes, cigars, hookahs, pipes, etc.) in County, City and Town Buildings; County, City and Town Grounds; County, City and Town Vehicles; the County Park System; and Buildings located within the County Park System.

D. PERFORMANCE STANDARDS

Performance standards are a set of expectations that the Department has for Service Providers. The purpose of performance standards is to state what results are expected for performance to be considered satisfactory. These are expectations that the Department has for Service Provider in addition to the description of services agreed to by the Service Provider in each Contract. The additional expectations include tracking outcomes, monitoring progress and presenting evidence to demonstrate that services are efficient and effective, and they are delivered using the County's Customer Service Standards which include: Service Quality, Timeliness, Courtesy and Respect, Clear Communication and Ethical Integrity.

Department is committed to providing technical assistance to Service Provider for the achievement of continuous quality improvement. By agreeing to the terms and conditions of the Contract, Service Provider is required to accept this assistance when it is offered, and implement systems that target ongoing quality improvement. It is the intention of the Department to give Service Provider sufficient opportunity to improve performance as it relates to the following Performance Standards and avoid the need to impose the consequences in each Contract.

E. METHOD OF PAYMENT

1. Rates are determined as follows:

\$

2. Submit monthly detailed invoices via electronic format to the email address below:

HSFInvoiceProcessing@mecklenburgcountync.gov

Electronic invoices must be submitted in accordance with the privacy and security requirements set forth in **SECTION VI – SAFEGUARDING CUSTOMER AND COUNTY INFORMATION.**

Payment will be made via electronic funds transfer.

F. CONDITION OF PAYMENT

1. Prepare and submit with invoice each month a financial report documenting actual monthly expenses per a line item budget. The total amount paid under the terms of this Contract shall not exceed the actual expenditures incurred by the Service Provider.
2. Line items in the budget, not to exceed the maximum amount payable under the terms of this contract, may be adjusted by mutual written consent between the Service Provider and HLT. In such case, the Service Provider shall provide an updated budget to be placed on file with all parties
3. The first invoice will be due no later than for services rendered from through of the current year and will be paid providing the contract has been fully executed.

3. Payment will be made within thirty (30) days of date of invoice.
4. Upon receipt, the invoice will be validated and verified for accuracy and submitted for payment. Incorrect invoices will be clarified with Service Provider with corrections/changes made on a revised invoice.
5. The date of the revised invoice will be considered as the original date of the invoice.
6. The County will authorize approved amounts to be paid to Service Provider.
7. Failure to send requests to the appropriate person may result in payment being delayed beyond thirty (30) calendar days.
8. For services rendered from _____ through _____ of the previous year, the invoice will be due no later than the 5th of the current year. Late billings must be submitted for payment no later than sixty (60) calendar days from the date of service. If billing is over (60) calendar days, the County may deny payment.

SECTION II – FISCAL PROVISIONS

- A. The County shall pay Service Provider in the manner and in the amounts specified in the Contract Documents. The maximum amount payable under this Contract is \$ _____. This amount consists of:
☐ Federal funds (CFDA # _____), ☐ State funds, ☐ County funds, ☐ Other funds.

SECTION III - AUDIT REQUIREMENTS

- A. Service Providers with total revenue, **from all sources, of less than one hundred thousand dollars (\$100,000)** in annual funding are required to submit at a minimum an Annual Financial Compilation (AFC) prepared by a Certified Public Accountant. An AFC refers to financial statements that include the following:
1. A balance sheet, statement of financial position or statement of assets, liabilities and owner's equity.
 2. A statement of income or statement of revenues and expenses.
 3. A statement of cash flows.
- B. Service Providers with total revenue, **from all sources, of more than one hundred thousand dollars (\$100,000)** in annual funding are required to submit an annual Audited Financial Statement prepared by a Certified Public Accountant. The audited financial statement must include the following:
1. A balance sheet, statement of financial position or statement of assets, liabilities and owner's equity.
 2. A statement of income or statement of revenues and expenses.
 3. A statement of cash flows.
 4. An independent auditor's opinion.
 5. Notes to the financial statements and supplemental information.

- C. The year-ended date for the financial statements must be no more than twelve (12) months prior to the beginning of the contract term.
- D. Shall comply with audit requirements as described in N.C.G.S. § 143C-6-22 & 23 and OMB Circular- CFR Title 2 Grants and Agreements, Part 200, and shall disclose all information required by 42 USC 455.104, or 42 USC 455.105, or 42 USC 455.106.

SECTION IV - CONTRACT SUMMARY

- A. Area to be served: Mecklenburg County and/or additional service delivery site: or any other identified site as approved.
- B. Contract Identification:
1. Service Provider
 - a. Name of Contract Administrator:
 - b. Telephone Number: Fax:
 - c. E-mail:
 - b. Name of Program Contact:
 - d. Telephone Number: Fax:
 - e. E-mail:
 - f. Program Name, Location, and Mailing Address:
 - g. Status: ☒ PRIVATE
 - h. Service Provider has DUNS Number ☐ Yes ☐ No DUNS Number
 2. DEPARTMENT
 - a. Name of Contract Analyst:
 - b. Telephone Number:
 - c. Address:
 - d.
 - d. E-mail:
 - e. Fax:
 - f. Name of Program Project Manager:
 - g. Telephone Number: Fax:
 - h. E-mail: @MecklenburgCountyNC.gov
 - i. Address of Department:
 - j. Charlotte, NC

SECTION V - LEGAL RESPONSIBILITIES OF BOTH PARTIES

Compliance with Federal and State Laws and Regulations and Authority to Contract

- A. SERVICE PROVIDER RESPONSIBILITIES:
1. Comply with the provisions of North Carolina Executive Order 24 and NCGS§ 133-32, which provide that it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any officer or employee of a governmental agency or State employee of the Governor's Cabinet Agencies (i.e.,

Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor) charged with the duty of preparing plans, specifications, or estimates for a public contract or awarding or administering a public contract. This prohibition covers those vendors and contractors who have a contract with a governmental agency; or have performed under such a contract within the past year; or anticipate bidding on such a contract in the future.

2. Have all the requisite power and authority to execute, deliver and perform its obligations under this Contract and to provide the service(s) stipulated in this Contract as described in the Service Provider Responsibilities (Section I.C.), in accordance with applicable standards for the service(s);
3. Furnish financial and program data as required to document that applicable standards have been met;
4. Comply with all State licensing standards, all applicable accrediting standards, and any other standards or criteria established by the State Department of and Human Services to assure quality of services in connection with its obligations under this Contract;
5. **Certification Regarding Nondiscrimination**
 - a. To comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (h) the Food Stamp Act and USDA policy, which prohibit discrimination on the basis of religion and political beliefs; and (i) the requirements of any other nondiscrimination statutes which may apply to this Contract.
 - b. Maintain and enforce a policy of nondiscrimination on the basis of race, color, religion, sex, age, national origin, or disability. Service Provider agrees that it will inform the Department of any alleged violation(s) of employment practices involving any employees who work on the Contract which are asserted in any claims filed with the Equal Employment Opportunity Commission, the US or NC Departments of Labor or any other federal or state compliance agency.
6. Comply with all local, state and federal ordinances, statutes, laws, rules and regulations applicable to the Services. Service Provider further agrees that it will at all times during the term of this Contract be in compliance with all applicable federal, state and/or local laws regarding employment practices. Such laws will include, but shall not be limited to: worker's

compensation, the Fair Labor Standards Act (FLSA), the Americans with Disabilities Act (ADA) of 1990; the Family and Medical Leave Act (FMLA), and all Occupational Safety and Administration (OSHA) regulations applicable to the Services.

7. Comply with Section 6032 of the Deficit Reduction Act of 2005 (42 USC 1396(a)(68)) as a condition of enrollment in the North Carolina Medicaid Program by ensuring that the Service Provider and any agent of the Service Provider are aware of the Federal False Claims Act, 31 USC 3729 et seq., administrative remedies for false claims and statements established under 31 USC 3801 et seq., and any North Carolina State laws pertaining to civil or criminal penalties for false claims and statements and whistleblower protections under such laws, with respect to the role of such laws in preventing and detecting fraud, waste, and abuse, if applicable.
8. Accept fiscal responsibility for deviations from the terms of this Contract as a result of acts of Service Provider or any of its officers, employees, agents or representatives.
9. Certify that no approval, authorization or consent of any governmental or regulatory authority is required to be obtained or made by Service Provider in order for Service Provider to enter into and perform obligations under this Contract.
10. Not violate any contract with any third party by entering into or performing this Contract.
11. Assure that funds received pursuant to this Contract shall be used only to supplement, not to supplant, the total amount of federal, state and local public funds that the Service Provider otherwise expends for Contract Services and related programs. Funds received under this Contract shall be used to provide additional public funding for such services; the funds shall not be used to reduce the Service Provider's total expenditure of other public funds for such services.
12. Make disbursements in accordance with the following requirements:
 - a. Implement adequate internal controls over disbursements;
 - b. Pre-audit all invoices/vouchers presented for payment to determine:
 - i. Validity and accuracy of payment
 - ii. Payment due date
 - iii. Adequacy of documentation supporting payment
 - iv. Legality of disbursement
 - c. Assure adequate control of signature stamps/plates;
 - d. Assure adequate control of negotiable instruments; and
 - e. Implement procedures to insure that account balance is solvent and reconcile the account monthly.
13. Certify that it has identified to the County all jobs related to the Contract that have been outsourced to other countries, if any. The Service Provider further agrees that it will not outsource any such jobs during the term of this Contract without obtaining prior written approval from the County.
14. Agree to make itself aware of and comply with, and cause its subcontractors to comply with all federal, state, and local laws, regulations and ordinances relating to the performance of this Contract and to the products and Services delivered hereunder, including without limitation, E-Verify (Article 2 of Chapter 64 of the North Carolina General Statutes), Workers' Compensation, the Fair Labor Standards Act (FLSA), the Americans with Disabilities Act (ADA), the Family and Medical Leave Act (FMLA), and all applicable regulations of the Occupational

Safety and Administration (OSHA). The Service Provider further agrees to obtain all verifications, permits and licenses applicable to the performance of this Contract. If any violation of this section has occurred or does occur, the Service Provider will indemnify, defend and hold harmless the County from all losses, damages, costs, expenses (including reasonable attorneys' fees), obligations, duties, fines, penalties, interest charges and other liabilities (including settlement amounts) incurred on account of such violation.

15. Represent and warrant that neither it nor any of its employees or subcontractors relevant to this Contract are excluded from any state or federal care programs. In the event Service Provider is excluded from a state or federal care program, Service Provider shall promptly notify the Department and this Contract shall immediately terminate. In the event an employee or subcontractor of Service Provider is excluded from a state or federal care program, Service Provider shall immediately notify the Department and immediately cease using that individual or subcontractor for this Contract.
16. Make available all services under this Contract to all persons without discrimination on the grounds of race, color, creed, national origin, religion, age, sex, disability or any other status protected by law.
17. Agrees to notify the County within five (5) days upon the receipt of notification from the North Carolina Secretary of State that the business charter, articles of incorporation, articles of organization, or certificate of authority of the corporation or limited liability company is under suspension pursuant to N.C.G.S. §105-230 for failing to file any report or return or to pay any tax or fee required by the North Carolina Department of Revenue or to sign an agreement for repayment within ninety (90) days after it is due.
18. Comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7104).
19. Iran Divestment Act Certification: Pursuant to N.C.G.S. § 147-86.59, Contractor certifies that as of the date of this Contract or purchase order, Contractor is not listed on the Final Divestment List as created by the State Treasurer, and is in compliance with the Iran Divestment Act as set forth in N.C.G.S. § 147-86.55-86.63. Further, the Contractor shall not utilize in the performance of the Contract any subcontractor that is identified on the Final Divestment List. The Divestment List may be found on the State Treasurer's website at www.nctreasurer.com/Iran."

SECTION VI - SAFEGUARDING CUSTOMER/CLIENT/PATIENT AND COUNTY INFORMATION

- A. Both parties hereto agree to comply with any and all applicable laws and regulations concerning the confidentiality of customer/client/patient records, files or communications in addition to the terms of this Contract.
- B. Both parties agree to secure the privacy, confidentiality and integrity of customer, client, patient, employee, and administrative data on automated systems and to install antivirus protection and a firewall, as well as any other industry standard security measures.
- C. Electronic exchange of confidential information, including any email which will include invoices, customer/client/patient billing information, employee or administrative data, or any information regarding the delivery of services to customers/clients/patients, must be sent and received via encrypted methods. Service Provider is responsible for determining how to send encrypted emails to the County.

- D. Service Provider agrees to keep confidential any information about a customer/client/patient or the County pursuant to the Confidentiality and Non-Disclosure Agreement which is incorporated herein as part of this Contract as follows:

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

Service Provider has obtained or may need to obtain confidential information from the County or its licensors, contractors or suppliers in connection with the provision of Services to the County or the discussions of such a proposed relationship.

The County and Service Provider desire to stipulate and agree that any disclosure of confidential information in connection with the provision of Services or the discussion of such a proposed relationship has occurred or will occur under circumstances and conditions that will protect and preserve the confidentiality of the information.

In consideration of the pursuit of current discussions and payment for the Services, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in further consideration of the covenants and representations contained herein, the parties agree as follows:

1. DEFINITIONS As used in this Contract, the following terms shall have the meanings set forth below:

Confidential Information. The term "Confidential Information" shall mean any information, in any medium, whether written, oral or electronic, not generally known in the relevant trade or industry, which falls within any of the following general categories:

- (1) Trade Secrets. For purposes of this Contract, trade secrets consist of information of the County or Service Provider or any of its suppliers, contractors or licensors: (a) that derives value from being secret; and (b) that the owner has taken reasonable steps to keep confidential. Examples of trade secrets include information relating to proprietary software, new technology, new products or services, flow charts or diagrams that show how things work, manuals that tell how things work and business processes and procedures.
- (2) Highly Restricted Information. Service Provider acknowledges that certain Highly Restricted Information is subject to legal restrictions beyond those imposed by this Contract, and agrees that: (a) all provisions in this Contract applicable to Confidential Information shall apply to Highly Restricted Information; and (b) Service Provider will also comply with any more restrictive instructions or written policies that may be provided by the County from time to time to protect the confidentiality of Highly Restricted Information, as defined below:
 - i. Information of the County or its suppliers, contractors or licensors marked "Confidential" or "Proprietary."
 - ii. Information relating to criminal investigations conducted by the County, and records of criminal intelligence information compiled by the County.
 - iii. Information contained in the County's personnel files, as defined by NC G S 153A-98. This consists of all information gathered by the County about employees, except for that information which is a matter of public record under North Carolina law.
 - iv. Citizen or employee social security numbers collected by the County.

- v. Computer security information of the County, including all security features of electronic data processing, or information technology systems, telecommunications networks and electronic security systems. This encompasses but is not limited to passwords and security standards, procedures, processes, configurations, software and codes.
- vi. Local tax records of the County that contain information about a taxpayer's income or receipts.
- vii. Any attorney/client privileged information disclosed by either party.
- viii. Any data collected from a person applying for financial or other types of assistance, including but not limited to their income, bank accounts, savings accounts, etc.
- ix. The name or address of individual homeowners who, based on their income, have received a rehabilitation grant to repair their home.
- x. Protected information (PHI), as defined in the Insurance Portability and Accountability Act (HIPAA), and any other information that is designated as confidential under federal or state law.

The parties acknowledge that in addition to information disclosed or revealed after the date of this Contract, the Confidential Information shall include information disclosed or revealed within one year prior to the date of this Contract.

2. RESTRICTIONS. Service Provider shall keep the Confidential Information in the strictest confidence, in the manner set forth below:
- a. Not copy, modify, enhance, compile or assemble (or reverse compile or disassemble), or reverse engineer Confidential Information, except as authorized by the County in writing.
 - b. Not directly or indirectly, disclose, divulge, reveal, report or transfer Confidential Information to any third party, other than an employee, agent, subcontractor or Service Provider of the County or Service Provider having a need to know such Confidential Information for purpose of performing work contemplated by this Contract between the County and Service Provider, and who has executed a confidentiality agreement incorporating substantially the form of this Confidentiality and Non-Disclosure Agreement. Service Provider shall not directly or indirectly, disclose, divulge, reveal, report or transfer Highly Restricted Information to any third party without the County's prior written consent.
 - c. Not use any Confidential Information for its own benefit or for the benefit of a third party, except to the extent such use is authorized by this Contract or other written contracts between the parties hereto, or is for the purpose for which such Confidential Information is being disclosed.
 - d. Not remove any proprietary legends or notices, including copyright notices, appearing on or in the Confidential Information.
 - e. Use reasonable efforts (including but not limited to seeking injunctive relief where reasonably necessary) to prohibit its employees, agents and subcontractors from using or disclosing the Confidential Information in a manner not permitted by this Contract.
 - f. In the event that any demand is made in litigation, arbitration or any other proceeding for disclosure of Confidential Information, Service Provider shall assert this Contract as

a ground for refusing the demand and, if necessary, shall seek a protective order or other appropriate relief to prevent or restrict and protect any disclosure of Confidential Information.

- g. All materials which constitute, reveal or derive from Confidential Information shall be kept confidential to the extent disclosure of such materials would reveal Confidential Information, and unless otherwise agreed, all such materials shall be returned to the County or destroyed upon satisfaction of the purpose of the disclosure of such information.
- h. Restrict employee access to the Confidential Information to those employees having a need to know for purposes of their jobs.
- i. Take all reasonable measures to prevent the use or disclosure of Confidential Information by its employees in a manner not permitted by this Contract.

3. EXCEPTIONS. The County agrees that Service Provider shall have no obligation with respect to any Confidential Information that Service Provider can establish was:

- a. Already known to Service Provider prior to being disclosed by the County;
- b. Or becomes publicly known through no wrongful act of Service Provider;
- c. Rightfully obtained by Service Provider from a third party without similar restriction and without breach hereof;
- d. Used or disclosed by Service Provider with the prior written authorization of the County;
- e. Disclosed pursuant to the requirement or request of a governmental agency, which disclosure cannot be made in confidence, provided that, in such instance, Service Provider shall first give to the other party notice of such requirement or request;
- f. Disclosed pursuant to the order of a court of competent jurisdiction or a lawfully issued subpoena, provided that Service Provider shall take reasonable steps to obtain an agreement or protective order providing that this Agreement will be applicable to all disclosures under the court order or subpoena.

4. REMEDIES. Service Provider acknowledges that the unauthorized disclosure of the Confidential Information will diminish the value of the County's proprietary interests therein. Accordingly, it is agreed that if Service Provider breaches its obligations hereunder, the County shall be entitled to equitable relief to protect its interests, including but not limited to injunctive relief, as well as monetary damages.

E. Data Security

The Service Provider shall adopt and apply data security standards and procedures that comply with all applicable federal, state, and local laws, regulations, and rules.

The Service Provider shall report a suspected or confirmed security breach to the County Department Procurement Analyst within twenty-four (24) hours after the breach is first discovered, provided that the Service Provider shall report a breach involving Social Security Administration data or Internal Revenue Service data within one (1) hour after the breach is first discovered.

If any applicable Federal, State, or local law, regulation, or rule requires the Service Provider to give written notice of a security breach to affected persons, the Service Provider shall bear the cost of the notice.

SECTION VII – INDEMNIFICATION

To the fullest extent permitted by law, the Service Provider shall indemnify, defend and hold harmless each of the “Indemnitees” (as defined below) from and against any and all “charges” (as defined below) paid or incurred by any of them as a result of any claims demands, lawsuits, actions or proceedings either: (i) alleging violation, misappropriation, or infringement of any copyright, trademark, patent, trade secret or other proprietary rights with respect to the Services or any products or deliverables provided to the County pursuant to this Contract (“infringement claims”); (ii) seeking payment for labor or materials purchased or supplied by the Service Provider or its subcontractors in connection with this Contract; or (iii) arising from the Service Provider’s failure to perform its obligations under this Contract, or from any act of negligence or willful misconduct by the Service Provider or any of its agents, employees or subcontractors relating to this Contract, including but not limited to any liability caused by an accident or other occurrence resulting in bodily injury, death, sickness, or disease to any person(s) or damage or destruction to any property, real or personal, tangible or intangible; or (iv) arising from a violation of any federal, state or local law, regulation or ordinance by the Service Provider or any of its subcontractors, including without limitation E-Verify or other immigration laws; or (v) arising from any claim that the Service Provider or an employee or subcontractor of the Service Provider is an employee of the County, including but not limited to claims relating to workers’ compensation, failure to withhold taxes, and the like. For purposes of this section: (a) the term “Indemnitees” means the County and each of the County’s officers, officials, employees, agents and independent contractors, excluding the Service Provider; and (b) the term “charges” means any and all losses, damages, costs, expenses (including reasonable attorneys’ fees), obligations, duties, fines, penalties, royalties, interest charges and other liabilities including settlement amounts.

SECTION VIII – TREATMENT OF ASSETS

Treatment of assets acquired under this Contract shall be subject to the following:

- A. Ownership of property purchased by Service Provider under the terms of this Contract for which reimbursement by the County is based upon the actual purchase cost of the property shall immediately vest with the County upon such reimbursement.
- B. The County shall have no claim to property purchased by Service Provider under the terms of this Contract for which reimbursement by the County is based upon an approved depreciation schedule or use allowance.
- C. Service Provider shall provide an annual accounting to the County of available property and administer in accordance with sound business practice a program for the maintenance, repair, protection and preservation of property purchased under the terms of this Contract to assure its continued availability.
- D. Property purchased under the terms of this Contract shall be used only for the performance of this Contract. A fixed assets inventory must be kept current by the Service Provider.

SECTION IX – RECORDS AND REPORTS

Service Provider agrees to maintain customer/client/patient records which date and document the service delivered for the individual customer/client/patient, a valid authorization for service, program records, documents and other evidence which reflect program operations and do the following:

- A. Furnish information to Department, as requested, to support provision of service(s) pursuant to this Contract and the full cost of the service. Service Provider agrees to submit requested changes to the Contract, or approved supporting information, for prior review, as needed or required.
- B. Maintain books, records, documents and other evidence and accounting procedures that reflect all direct and indirect costs expended under this Contract for a minimum of five years after final payment or until all audits continued beyond this period are completed or longer if required by funding source. The record retention period for Temporary Assistance for Needy Families (TANF) and MEDICAID and Medical Assistance grants and programs must be retained for a minimum of ten years. Upon request, Service Provider shall make available such books, records and other documents necessary to certify the nature and extent of the cost of the Services to the Secretary of and Human Services and the Comptroller General of the United States or their duly authorized representatives. A fixed assets inventory must be kept current by the Service Provider.
- C. Maintain a separate accounting system, including ledgers and journals, which clearly identify income, expenditures, assets and liabilities for this contracted service. Federal, state and County auditors and any other persons authorized by Department shall have the right to examine any of these materials. In the event Service Provider dissolves or otherwise goes out of existence, records produced under this Contract will be turned over to the County.

SECTION X – SUBCONTRACTING

Service Provider shall not subcontract any of the work contemplated under this Contract without obtaining prior written approval from the County. Any approved subcontract shall be subject to all conditions of this Contract. Service Provider shall be responsible for the performance of any subcontractor.

SECTION XI – MONITORING AND EVALUATION

- A. Service Provider agrees to participate in program, fiscal and administrative audits, making records and staff time available to Federal, State, and County staff.
- B. Service Provider agrees to take the necessary steps for corrective action, as required within a corrective action plan, for any items found to be out of compliance with Federal and State laws, regulations, standards and/or terms of this Contract.
- C. During the term of this Contract and for a period of four (4) years or for Medicaid records ten (10) years after termination or expiration of this Contract for any reason, in addition to the County, the federal and State government shall have the right to audit, through either itself or a third party, the books and records (including but not limited to the technical records) of Service Provider in connection with this Contract, to ensure Service Provider's compliance with all the terms and conditions of this Contract.

SECTION XII – AMENDMENT

This Contract may be amended at any time with mutual consent of the parties hereto, but any amendment shall be in writing and signed by the parties hereto.

SECTION XIII - SEVERABILITY

The invalidity of one or more of the phrases, sentences, clauses or sections contained in this Contract shall not affect the validity of the remaining portion of this Contract so long as the material purposes of this Contract can be determined and effectuated. If any provision of this Contract is held to be unenforceable, then both parties shall be relieved of all obligations arising under such provision, but only to the extent that such provision is unenforceable, and this Contract shall be deemed amended by modifying such provision to the extent necessary to make it enforceable while preserving its intent.

SECTION XIV - WAIVER

No delay or omission by either party to exercise any right or power it has under this Contract shall impair or be construed as a waiver of such right or power. A waiver by either party of any covenant or breach of this Contract shall not constitute or operate as a waiver of any succeeding breach of that covenant or of any other covenant. No waiver of any provision of this Contract shall be effective unless in writing and signed by the party waiving the rights.

SECTION XV – NOTICES

Any notice, consent or other communication required or contemplated by this Contract shall be in writing, and shall be delivered in person, by U.S. mail, by overnight courier, by electronic mail or by telefax to the Contract Analyst at the address set forth in Section IV.

Notice shall be effective upon the date of receipt by the intended recipient; provided that any notice, which is sent by telefax or electronic mail, shall also be simultaneously sent by mail deposited with the U.S. Postal Service or by overnight courier. Each party may change its address for notification purposes by giving the other party written notice of the new address and the date upon which it shall become effective.

SECTION XVI - SALES/USE TAX REFUNDS AND TAXES

Service Provider shall pay all applicable federal, state and local taxes chargeable against the performance of the services.

N.C. G.S. 143-59.1 bars the Secretary of Administration from entering into Contracts with Service Providers that meet one of the conditions of G.S. 105-164.8(b) and yet refuse to collect use taxes on sales of tangible personal property to purchasers in North Carolina. The conditions include: (a) maintenance of a retail establishment or office; (b) presence of representatives in the State that solicit sales or transact business on behalf of the vendor; and (c) systematic exploitation of the market by media-assisted, media-facilitated, or media-solicited means. The Service Provider certifies that it and all of its affiliates (if any) collect all required taxes.

If eligible, the Service Provider and all subcontractors shall (a) ask the North Carolina Department of Revenue for a refund of all sales and use taxes paid by them in the performance of this contract, pursuant to G.S. 105-164.14; and (b) exclude all refundable sales and use taxes from all reportable expenditures before the expenses are entered in their reimbursement reports.

SECTION XVII – REDUCTION OR NON-APPROPRIATION OF FUNDS

In the event that Federal, State, Local or grant funding is no longer available or has been reduced, the County shall not be obligated to continue this Contract or any part thereof.

If the Board of County Commissioners does not appropriate the funding needed by the County to make payments under this Contract for a given fiscal year, the County shall not be obligated to pay amounts due beyond the end of the last fiscal year for which funds were appropriated. In such event, the County will notify Service Provider of the non-appropriation and this Contract will be terminated at the end of the last fiscal year for which funds were appropriated. No act or omission by the County, which is attributable to non-appropriation of funds, shall constitute a breach of or default under this Contract.

Any unexpended grant funds shall revert to the County upon termination of this Contract.

SECTION XVIII – CHANGE IN CONTROL

In the event of a change in “Control” of Service Provider (as defined below), the County shall have the option of terminating this Contract by written notice to Service Provider as specified under the terms of Section

. Service Provider shall notify the County within ten (10) days after it becomes aware that a change in Control is imminent or has occurred. As used in this Contract, the term “Control” shall mean the possession, direct or indirect, of either: (i) the ownership of or ability to direct the voting of, as the case may be, fifty-one percent (51%) or more of the equity interests, value or voting power in Service Provider; or (ii) the power to direct or cause the direction of the management and policies of Service Provider whether through the ownership of voting securities, by contract or otherwise (iii) the position of Executive Director, Board Chairman or more than 25% of the Board of Directors.

SECTION XIX – TERMINATION

A. Termination Without Cause

The County or Service Provider may terminate this Contract at any time without cause by giving thirty (30) calendar days prior written notice to the other party deliverable in person or by certified or registered mail to the persons identified as the Contract Analyst/Administrator for each party as set forth in Section . In the event the County terminates this Contract, the Service Provider shall continue performing the service or work on the deliverable item until the termination date designated by the County in its termination notice. The County shall pay the Service Provider for satisfactory work completed through the date of termination under the terms of this Contract.

B. Termination With Cause

1. If, through any cause, the Service Provider shall fail to fulfill its obligations under this Contract in a timely and proper manner, the County shall have the right to terminate this Contract by giving written notice to the Service Provider and specifying the effective date thereof. In that event, all finished or unfinished deliverable items prepared by the Service Provider under this Contract shall, at the option of the County, become its property and the Service Provider shall be entitled to receive just and equitable compensation for any satisfactory work completed on such materials, minus any payment or compensation previously made. Notwithstanding the foregoing provision, the Service Provider shall not be relieved of liability to the County for damages sustained by the County by virtue of the Service Provider’s breach of this Contract, and the County may withhold any payment due the Service Provider for the purpose of setoff until such time as the exact amount of damages due the County from such breach can be determined. In case of default by the Service Provider, without limiting any other remedies for breach available to it, County may procure the Contract Services from other sources and hold the Service Provider responsible for payment of any excess cost occasioned thereby.
2. The filing of a petition for bankruptcy by the Service Provider shall be an act of default under this Contract, and the County shall have the right to terminate this Contract by giving written notice to the Service Provider and specifying the effective date thereof.

3. The County shall have the right to terminate this Contract by giving written notice to the Service Provider and specifying the effective date thereof if the Service Provider takes or fails to take any action which constitutes grounds for termination under the terms of this Contract, including but not limited to failure to obtain or maintain the insurance policies and endorsements as required by this Contract, or failure to provide the proof of insurance as required by this Contract. County shall be entitled to all rights and benefits of the Federal Intellectual Property Bankruptcy Protection Act, Public Law 100-506, codified at 11 U.S.C. 365 (n) and any amendments thereto.

C. Obligations Upon Expiration or Termination

Upon expiration or termination of this Contract, Service Provider shall promptly (a) return to the County all computer programs (with the exception of software that Service Provider provided as part of the equipment requirements), files, files in storage, documentation, data, media, related material and any other material and equipment and/or any other property acquired as referenced in Section VI that is owned by the County; and (b) allow the County or a new Service Provider access to the systems, software, infrastructure, or processes of Service Provider that are necessary to complete delivery of services. The return of files relative to the delivery of services in storage will be at no cost to the County. The expiration or termination of this Contract shall not relieve either party of its obligations regarding "Confidential Information", as defined in the Section VI.

A. Authority to Terminate

The County Manager or the County Manager's designee, including but not limited to the Director and the Assistant County Manager for the Consolidated Human Services Agency, is authorized to terminate this Contract on behalf of the County.

E. Cancellation of orders and subcontracts

In the event this Contract is terminated by the County for any reason prior to the end of the term, Service Provider shall upon termination immediately discontinue all service in connection with this Contract and promptly cancel all existing orders and subcontracts, which are chargeable to this Contract. As soon as practicable after receipt of notice of termination, Service Provider shall submit a statement to the County showing in detail the services performed under this Contract to the date of termination.

F. No Effect on Taxes, Fees, Charges, or Reports

Any termination of this Contract shall not relieve Service Provider of the obligation to pay any fees, taxes or other charges then due to the County, nor relieve Service Provider of the obligation to file any daily, monthly, quarterly or annual reports covering the period to termination nor relieve Service Provider from any claim for damages previously accrued or then accruing against Service Provider.

G. Other Remedies

Upon termination of this Contract, each party may seek all legal and equitable remedies to which it is entitled. The remedies set forth herein shall be deemed cumulative and not exclusive and may be exercised successively or concurrently, in addition to any other available remedies.

SECTION XX – INSURANCE REQUIREMENTS

Throughout the Term, Service Provider and any of its subcontractors will comply with the insurance requirements described in this section. In the event that Service Provider fails to maintain required insurance, the County shall be entitled to terminate or suspend the Contract immediately.

The Service Provider agrees to purchase and maintain the following insurance coverage during the Term:

☐ **Automobile Liability**

Insurance with a limit of not less than \$1,000,000 per occurrence combined single limit each occurrence for bodily injury and property damage liability covering all owned, non-owned, and hired vehicles.



Commercial General Liability

Insurance with a limit not less than \$1,000,000 per occurrence/aggregate including coverage for bodily injury, property damage, products and completed operations, personal/advertising injury liability and contractual liability.

The County shall be named as an additional insured under the commercial general liability insurance for operations or services rendered under this Contract. The County shall be designated as Certificate Holder on the Certificate of Insurance.



Workers' Compensation

Insurance meeting the statutory requirements of the State of North Carolina and any applicable Federal laws; and, Employers' Liability - \$100,000 per accident limit, \$500,000 disease per policy limit, \$100,000 disease each employee limit.



Professional Errors & Omissions

Insurance with a limit of not less than \$1,000,000 per claim occurrence as shall protect the Service Provider and the Service Provider's employees for negligent acts, errors or omissions in performing the professional services under this contract.



Sexual Abuse and Molestation

Insurance with a limit of not less than \$1,000,000 per claim occurrence as shall protect the Service Provider and the Service Provider's employees for negligent acts in performing the professional services under this contract.



Network Security and Privacy Liability

Network Security and Privacy Liability as shall protect the Company and its employees from claims alleging from the failure: (1) to provide adequate electronic or physical security to safeguard against the theft, loss or other threat to confidential information; or, (2) to protect information of Mecklenburg County in any format. This policy shall be specific to the performance of this Contract and shall provide combined single limit each occurrence/aggregate of \$3,000,000. Policy will include acts of rogue employees and have a retroactive date of no later than the first date services under this contract are to be performed.



Fidelity Bond

Insuring the Service Provider and/or his employees that have access to monies or properties of the County. Providing employee dishonesty coverage on all employees at a limit of not less than \$500,000, with the addition of Loss Payable endorsement (CR 20 14 08 07), Mecklenburg County named as loss payee; actual required coverage will vary according to the amount of money or property handled and will be determined by the County during processing of the Contract.

Service Provider shall not commence any work in connection with the Contract until it has obtained all of the types of insurance set forth in this section and has furnished corresponding certificates of insurance to the County with the Contract. Service Provider shall be responsible for notice to the County of any material changes (including renewals) to or cancellation of required insurance coverage. Service Provider shall not allow any subcontractor to commence work without proof of the same insurance coverage required of Service Provider under this Contract.

All insurance policies shall be written by insurers qualified to do business in the State of North Carolina. If any of the coverage conditions are met by a program of self-insurance, the Service Provider must submit evidence of the right to self-insure under North Carolina law.

Payment of any deductible or retention shall be the sole responsibility of the Service Provider or, as applicable, Service provider's subcontractor. The County shall not be liable for any deductible or self-insured retention in any insurance policy of Service Provider.

Service Provider's insurance shall be primary of any self-insurance or insurance policy carried by the County for all loss or damages arising from the Service Provider's operations under this Contract. The Service Provider and each of its subcontractors shall waive all rights of subrogation against the County and each of the Indemnities.

The County shall be exempt from, and in no way liable for any sums of money that may represent a deductible or self-insured retention in any insurance policy. The payment of the deductible/retention shall be the sole responsibility of the Service Provider and/or subcontractor.

The Service Provider's insurance shall be primary of any self-funding and/or insurance otherwise carried by the County for all loss or damages arising from the Service Provider's operations under this contract. The Service Provider and each of its subcontractors shall and does waive all rights of subrogation against the County and each of the Indemnities.

SECTION XXI - GOVERNING LAW AND JURISDICTION

The parties acknowledge that this Contract is made and entered into in Charlotte, North Carolina. The parties further acknowledge and agree that North Carolina law shall govern all the rights, obligations, duties and liabilities of the parties under this Contract, and that North Carolina law shall govern the interpretation and enforcement of this Contract and any other matters relating to this Contract (all without regard to North Carolina conflicts of law principles).

Each party consents to the exclusive jurisdiction of the state and federal courts located in Charlotte, Mecklenburg County, North Carolina in any proceeding arising out of or relating to this Contract, and waives any defense related to venue or inconvenient forum.

SECTION XXII - FORCE MAJEURE

Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by any act of war, hostile foreign action, nuclear explosion, riot, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God constituting a Force Majeure Event.

An event which satisfies all of the conditions set forth above shall be referred to as a "Force Majeure Event." Upon the occurrence of a Force Majeure Event, Service Provider shall be excused from any further performance of those obligations which are affected by the Force Majeure Event for as long as (a) such Force Majeure Event continues and (b) Service Provider continues to use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay.

Upon the occurrence of a Force Majeure Event, Service Provider shall immediately notify the County by telephone as identified in Section IV (to be confirmed by written notice within two (2) business days of the inception of the failure or delay) of the occurrence of a Force Majeure Event and shall describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event prevents Service Provider from

performing its obligations for more than five (5) business days, the County shall have the right to terminate this Contract by written notice to Service Provider.

Strikes, slowdowns, lockouts, walkouts, industrial disturbances and other labor disputes shall not constitute Force Majeure Events and shall not excuse Service Provider from the performance of its obligations under this Contract.

SECTION XXIII - CERTIFICATION REGARDING LOBBYING

- A. No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal Contract, continuation, renewal, amendment or modification of any Federal Contract, grant, loan or cooperative Contract.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal Contract, grant, loan or cooperative Contract, Service Provider shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. Service Provider shall require that the language of this certification be included in the award document for sub-awards at all tiers (including subcontracts, sub-grants and Contracts under grants, loans and cooperative Contracts) and that all sub-recipients shall certify and disclose accordingly.
- D. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

SECTION XXIV - DRUG-FREE WORKPLACE

- A. The County is a drug-free workplace employer. For any employee assigned by the Company to provide services under this contract, on behalf of the County, the following shall be required:
 - 1. Notifying assigned employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and the actions that will be taken against employees for violations of such prohibition;
 - 2. Notifying each assigned employee that as a condition of the assignment, the employee will be expected to (i) abide by the terms of this provision and (ii) notify the Company of any criminal drug statute conviction not later than five (5) days after such conviction;
 - 3. Notify the County within ten days after receiving from an employee a notice of a criminal drug statute conviction or after otherwise receiving actual notice of such conviction;
 - 4. As a condition of continued assignment with the County provide to the County any measures implemented by the Company to address the issues of rehabilitation, counseling or participation in a drug treatment program; and

5. Requiring any party to which it subcontracts any portion of the Services under the Contract to comply with these provisions.

B. Failure to comply with the above drug-free requirements for assigned employees during the performance of this Contract shall be grounds for suspension, termination or debarment.

Or

By execution of this Contract the Service Provider certifies that it will provide a drug-free workplace by:

A. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

B. Establishing a drug-free awareness program to inform employees about:

1. The dangers of drug abuse in the workplace;

2. The contractor's policy of maintaining a drug-free workplace;

3. Any available drug counseling, rehabilitation, and employee assistance programs; and

4. Penalties that may be imposed upon employees for drug abuse violations occurring in the work place;

C. Making it a requirement that each employee be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A);

D. Notifying the employee in the statement required by paragraph (A) that, as a condition of employment under the Contract, the employee will:

1. Abide by the terms of the statement; and

2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;

E. Notifying the County within ten days after receiving notice under subparagraph (D)(2) from an employee or otherwise receiving actual notice of such conviction;

F. Taking one of the following actions, within 30 days of receiving notice under subparagraph (D)(2), with respect to any employee who is so convicted:

2. Taking appropriate personnel action against such an employee, up to and including termination; or

3. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; and

Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (A), (B), (C), (D), (E), and (F).

The site(s) for the performance of work done in connection with the specific Contract are listed in Section IV.

Service Provider will inform the County of any additional sites for performance of work under this Contract.

False certification or violation of the certification shall be grounds for suspension of payment, suspension or termination of grants, or government-wide Federal suspension or debarment 45 C.F.R. Section 82.510.

SECTION XXV- CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE

Public Law 103-227, Part C-Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned, leased, or contracted for by an entity and used routinely or regularly for the provision of , day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, Contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 per day and/or the imposition of an administrative compliance order on the responsible entity.

By signing and submitting this Contract, Service Provider certifies that it will comply with the requirements of the Act. Service Provider further agrees that it will require the language of this certification be included in any sub-awards which contain provisions for children's services and that all sub-grantees shall certify accordingly.

SECTION XXVI – INSURANCE PORTABILITY AND ACCOUNTABILITY ACT

Service Provider agrees that it shall comply with the Insurance Portability and Accountability Act of 1996, P.L. 104-91, as amended ("HIPAA") and its implementing regulations and will execute such contracts and practices as the County may require to ensure compliance, including but not limited to adherence to the terms of the Business Associate Agreement included herein as Section .

SECTION XXVII - CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION - LOWER TIER COVERED TRANSACTIONS

[The phrase "lower tier participant" means the Service Provider.]

- A. By signing and submitting this Contract, the lower tier participant is providing the certification set out below.
- B. The certification in this clause is a material representation of the fact upon which reliance was placed when this Contract was entered into. If it is later determined that the lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- C. The lower tier participant will provide immediate written notice to the person to whom the Contract is submitted if at any time the lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- D. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 (45 CFR Part 76).
- E. The lower tier participant agrees by submitting this Contract that, should the proposed covered transaction be entered into, it shall not knowingly enter any lower tier covered transaction with a person who is debarred, suspended, determined ineligible or voluntarily excluded from participation in

this covered transaction unless authorized by the department or agency with which this transaction originated.

- F. The lower tier participant further agrees by submitting this Contract that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- G. A participant in a covered transaction may rely upon a certification of a participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency of which it determines the eligibility of its principals. Each County participant may, but is not required to, check the Non-Procurement List.
- H. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- I. Except for transactions authorized in paragraph E of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension, and/or debarment.

Certification

- (1) The lower tier participant certifies, by submission of this Contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this Contract.

SECTION XXVIII – TRANSPORTATION, (If applicable)

By execution of this Contract, the Service Provider certifies that it will provide safe customer/client/patient transportation by:

- A. Insuring that all drivers (including employees, contractor contractor's employees, and volunteers) shall be at least 18 years of age;
- B. Insuring that all drivers (including employees, contractor, contractor's employees, and volunteers) shall be licensed to operate the specific vehicle used in transporting customers/clients/patients in accordance with NCGS 20-7 and the Division of Motor Vehicle requirements;
- C. Insuring that all vehicles used to transport customers/clients/patients shall have valid State registrations and State inspection stickers;
- D. Insuring that all vehicles transporting customers/clients/patients shall have at least the minimum level of liability insurance appropriate for the type of vehicle as defined by Article 7, Rule R2-36 of the North Carolina Utilities Commission;

- E. Insuring that the Service Provider shall have written policies and procedures regarding emergencies and/or vehicle crashes involving customers/clients/patients, and notification to the Mecklenburg County Department.
- F. Insuring that no more than one quarter of one percent of all trips be missed by the Service Provider during the course of the Contract period; (*Medicaid only*)
- G. Insuring that that no more than five percent (5%) of trips should be late for customer/client/patient drop off to their appointment per month; (*Medicaid only*)
- H. Maintaining records documenting the following (*County may require Service Provider to provide*):
 - a. Valid current copies of Drivers License for all drivers;
 - b. Current valid Vehicle Registration, for all vehicles transporting clients;
 - c. Driving records for all drivers for the past three years and with annual updates;
 - d. Criminal Background checks through North Carolina Law Enforcement or NCIC prior to employment and every three years thereafter;
 - e. Alcohol and Drug Testing policy to meet the Federal Transit Authority guidelines.
- I. Disclosing, at the outset of the Contract, upon renewal and upon request, any criminal convictions or other reasons for disqualifications from participation in Medicare, Medicaid or Title XX programs.

SECTION XXIX – BUSINESS ASSOCIATE AGREEMENT

THIS BUSINESS ASSOCIATE AGREEMENT (this “Agreement”), is by and between Mecklenburg County, a political subdivision of the State of North Carolina (“Covered Entity”), and Service Provider (“Business Associate”).

WITNESSETH:

WHEREAS, Business Associate provides certain services on behalf of Covered Entity that require Covered Entity to disclose certain identifiable information to Business Associate, pursuant to the terms of a services agreement or other contract between the parties (the “Services Agreement”); and

WHEREAS, the parties desire to enter into this Agreement to permit Business Associate to use or disclose such identifiable information and to comply with the business associate requirements of the Insurance Portability and Accountability Act of 1996 and the privacy, security, administrative, enforcement and breach notification rules and regulations promulgated thereunder, as currently in effect or as hereafter amended (collectively, “HIPAA”); and

WHEREAS, Business Associate may have access to Protected Information (“PHI”), as defined below, in fulfilling its responsibilities under such arrangement.

NOW, THEREFORE, in consideration of the mutual promises and covenants made herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

SECTION 1. DEFINITIONS

Except as otherwise defined herein, any and all capitalized terms used, but not otherwise defined, in this Agreement shall have the same meaning for those terms as set forth in HIPAA. Where provisions of this Agreement are different than those mandated by HIPAA, but are nonetheless permitted by HIPAA, the provisions of this Agreement shall control.

1.1 Protected Information. “Protected Information” (“PHI”) shall have the same meaning as the term “Protected Information” set forth at 45 C.F.R. § 160.103, limited to the information received from, or created, received maintained or transmitted by Business Associate on behalf of, Covered Entity.

1.2 Electronic Protected Information. “Electronic Protected Information” (“Electronic PHI”) shall mean PHI transmitted by or maintained in “electronic media” (as such term is defined in 45 C.F.R. § 160.103).

1.3 Breach. “Breach” shall have the same meaning as codified at 45 C.F.R. § 164.402.

1.4 Secretary. “Secretary” shall mean the Secretary of the United States Department of Health and Human Services or his/her designee.

1.5 Unsecured Protected Information. “Unsecured Protected Information” (“Unsecured PHI”) shall mean PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in guidance published at 74 Fed. Reg. 19006 (April 27, 2009), and in annual guidance published thereafter.

SECTION 2. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE

2.1 Not to Use or Disclose PHI Unless Permitted or Required. Business Associate agrees not to use or disclose PHI other than as permitted or required by this Agreement, or as required by law, or as otherwise authorized by Covered Entity.

2.2 Use Safeguards. Business Associate agrees to use appropriate safeguards and comply, where applicable, with the Security Rule with respect to Electronic PHI, to prevent the use or disclosure of PHI other than as provided for by this Agreement as outlined in Section 4 of this Agreement.

2.3 Mitigate Harmful Effects. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of this Agreement.

2.4 Report Unpermitted Disclosures of PHI. Business Associate agrees to report to Covered Entity any use or disclosure of PHI not permitted or required by this Agreement (an “Incident”) of which Business Associate becomes aware, including breaches of Unsecured PHI as required by 45 C.F.R. § 164.410.

2.5 Compliance of Agents. Business Associate agrees to require any agents, including subcontractors, that create, receive, maintain or transmit PHI on its behalf to agree to the same restrictions and conditions that apply to Business Associate through this Agreement with respect to such PHI.

2.6 Requests for Restrictions. Business Associate agrees to comply with any requests for restrictions on certain disclosures of PHI to which Covered Entity has agreed in accordance with 45 C.F.R. § 164.522 and of which Business Associate has been notified by Covered Entity. In addition, and notwithstanding 45 C.F.R. § 164.522(a)(1)(ii), Business Associate agrees to comply with an individual’s request to restrict disclosures of PHI, of which Business Associate has been notified by Covered Entity, to a plan for purposes of carrying out “payment” or “care operations” (as such terms are defined in 45 C.F.R. § 164.501) if the PHI pertains solely to a care item or service for which Covered Entity has been paid in full by the individual or the individual’s representative.

2.7 Provide Access. Business Associate will make available to Covered Entity PHI to the extent requested by Covered Entity, including without limitation as required under 45 C.F.R. § 164.524, which

describe the requirements applicable to an individual's request for access to PHI relating to the individual. The obligations of Business Associate in this Section apply only to PHI in a "Designated Record Set" in Business Associate's possession or control as such term is defined at 45 C.F.R. § 164.501.

2.8 Incorporate Amendments. Business Associate will make available to Covered Entity PHI requested by Covered Entity, including without limitation as required for amendment of such PHI, and shall make and incorporate any such amendments, all in accordance with 45 C.F.R. § 164.526, which describes the requirements applicable to an individual's request for an amendment to any PHI relating to the individual. The obligations of Business Associate in this Section apply only to PHI in a "Designated Record Set" in Business Associate's possession or control as such term is defined at 45 C.F.R. § 164.501.

2.9 Document Disclosures. Business Associate will make available PHI requested by Covered Entity, including without limitation as required to provide an accounting of disclosures in accordance with 45 C.F.R. § 164.528, which describe the requirements applicable to an individual's request for an accounting of disclosures of PHI relating to the individual. Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.

2.10 Disclose Practices, Books, and Records. If Business Associate receives a request, made on behalf of the Secretary, that Business Associate make its internal practices, books, and records relating to the use and disclosure of PHI available to the Secretary for purposes of determining Covered Entity's compliance with HIPAA, then Business Associate will promptly comply with the request within the time period required for such response as specified in such request.

2.11 Other. To the extent the Business Associate is to carry out the Covered Entity's obligation, Business Associate shall comply with the Privacy, Security and Breach Notification Rules that apply to the Covered Entity in the performance of such obligation.

SECTION 3. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE

3.1 Functions and Activities on Behalf of Covered Entity. Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI only to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Services Agreement provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity.

3.2 Other Uses and Disclosures. Except as otherwise limited by this Agreement, Business Associate may use and disclose PHI as follows:

- a. if necessary, for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate, provided that as to any such disclosure, the following requirements are met:
 - i. the disclosure is required by law; or
 - ii. Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached;

- b. for data aggregation services, if to be provided by Business Associate for the care operations (as such term is defined in 45 C.F.R. § 164.501) of Covered Entity pursuant to any agreements between the parties evidencing their business relationship. For purposes of this Agreement, data aggregation services means the combining of PHI by Business Associate with the protected information received by Business Associate in its capacity as a business associate of another covered entity, to permit data analyses that relate to the care operations of the respective covered entities.

3.3 Minimum Necessary. Business Associate shall use, disclose, or request only the minimum necessary amount of PHI to accomplish the intended purpose of such use, disclosure, or request.

SECTION 4. SECURITY SAFEGUARD RULES

4.1 Implement Safeguards. Business Associate shall implement the administrative, physical, and technical safeguards set forth in 45 C.F.R. §§ 164.308, 164.310, and 164.312 that reasonably and appropriately protect the confidentiality, integrity, and availability of any Electronic PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity, and, in accordance with 45 C.F.R. § 164.316, implement and maintain reasonable and appropriate policies and procedures to enable it to comply with the requirements set forth in Sections 164.308, 164.310, and 164.312.

4.2 Compliance of Agents and Subcontractors. Business Associate will ensure that any agent, including a subcontractor, to whom it provides Electronic PHI agrees to implement the same safeguards required of Business Associate in Section 4.1 hereof.

4.3 Report Security Incidents. Business Associate shall report to Covered Entity any Security Incident of which it becomes aware. For purposes of this Agreement, "Security Incident" means the successful unauthorized access, use, disclosure, modification, or destruction of Electronic PHI or interference with system operations in an information system, excluding: (a) "pings" on an information system firewall; (b) port scans; (c) attempts to log on to an information system or enter a database with an invalid password or user name; (d) denial-of-service attacks that do not result in a server being taken offline; or (e) malware (e.g., a worm or virus) that does not result in unauthorized access, use, disclosure, modification, or destruction of Electronic PHI. Business Associate agrees to mitigate, to the extent practicable, any harmful effect resulting from such Security Incident.

SECTION 5. BREACH NOTIFICATION

5.1 Timing of Notification. Following the discovery of an Incident, including an impermissible or unauthorized disclosure of data in a limited data set, or a confirmed Breach of Unsecured PHI, Business Associate shall notify Covered Entity of such Breach without unreasonable delay, but in no event later than five (5) business days following the discovery of the Breach. A Breach shall be treated as discovered by Business Associate as of the first day on which such Breach is known to Business Associate or, through the exercise of reasonable diligence, would have been known to Business Associate.

5.2 Law Enforcement Delay. Notwithstanding the provisions of Section 5.1, above, if a law enforcement official states to Business Associate that notification of a Breach would impede a criminal investigation or cause damage to national security, then Business Associate shall immediately notify Covered Entity of such a requested delay and:

- a. if the statement is in writing and specifies the time for which a delay is required, Business Associate shall delay such notification for the time period specified by the official; or

- b. if the statement is made orally, Business Associate shall document the statement, including the identity of the official making the statement, and delay such notification for no longer than thirty (30) days from the date of the oral statement unless the official submits a written statement during that time.

5.3 Contents of Notification. The Breach notification provided to Covered Entity shall include, to the extent possible:

- a. the identification of each individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, used, or disclosed during the Breach;
- b. a brief description of what happened, including the date of the Breach and the date of discovery of the Breach, if known;
- c. a description of the types of Unsecured PHI that were involved in the Breach (such as whether full name, Social Security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
- d. any steps individuals should take to protect themselves from potential harm resulting from the Breach;
- e. a brief description of what Business Associate is doing to investigate the Breach, to mitigate harm to individuals, and to protect against any further Breach; and
- f. contact procedures for individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.

Business Associate shall provide the information specified in this Section to Covered Entity at the time of the Breach notification, if possible, or promptly thereafter as information becomes available. Business Associate shall not delay notification to Covered Entity that a Breach has occurred in order to collect the information described in this Section, and shall provide such information to Covered Entity even if the information becomes available after the five (5) day period provided in Section 5.1, above.

SECTION 6. TERM AND TERMINATION

6.1 Term. The Term of this Agreement shall be effective as of the date first written above and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity hereunder and/or under the Services Agreement, is destroyed or returned to Covered Entity.

6.2 Termination for Cause. Upon Covered Entity's knowledge of a material breach or violation hereof by Business Associate, Covered Entity shall have the right to immediately terminate this Agreement.

6.3 Effect of Termination. Upon termination of this Agreement for any reason, Business Associate will return or destroy all PHI received from Covered Entity or created, received, maintained or transmitted by Business Associate on behalf of Covered Entity that Business Associate still maintains in any form, and shall retain no copies of such information. If such return or destruction is not feasible, as reasonably supported by competent records and other written evidence of Business Associate, Business Associate will extend the protections of this Agreement to the information retained and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

SECTION 7. MISCELLANEOUS PROVISIONS

7.1 Amendment. This Agreement cannot be amended except by the mutual written agreement of Business Associate and Covered Entity. In the event either party believes in good faith that any provision of this Agreement fails to comply with the then-current requirements of HIPAA, such party shall so notify the other party in writing. For a period of up to thirty (30) days, the parties shall address in good faith such concern and shall amend the terms of this Agreement, if necessary, to bring it into compliance. If after such thirty (30) day period this Agreement fails to comply with HIPAA with respect to the concern(s) raised pursuant to this Section, then either party may terminate this Agreement upon written notice to the other party.

7.2 No Third Party Beneficiary Rights. This Agreement is intended for the sole benefit of Business Associate and Covered Entity and does not create any third-party beneficiary rights.

7.3 Independent Contractor Relationship. The parties agree that the legal relationship between Covered Entity and Business Associate is strictly an independent contractor relationship. Nothing in this Agreement shall be deemed to create a joint venture, agency, partnership, or employer-employee relationship between the parties.

7.4 Headings. The section headings contained in this Agreement are for reference purposes only and will not affect the meaning of this Agreement.

7.5 Survival. The rights and obligations of Business Associate under Section 6.3 of this Agreement shall survive the termination of this Agreement.

7.6 Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits the parties to comply with HIPAA.

7.7 Waiver. Any failure of a party to exercise or enforce any of its rights under this Agreement will not act as a waiver of such rights.

7.8 Binding Effect. The Agreement shall be binding upon, and shall inure to the benefit of, the parties and their respective successors and permitted assigns.

7.9 Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be illegal, invalid, or unenforceable under present or future laws effective during the term of this Agreement, the legality, validity, and enforceability of the remaining provisions of this Agreement shall not be affected thereby.

7.10 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

7.11 Integration. Except as provided in the Services Agreement, this Agreement constitutes the entire agreement between the parties with regard to the subject matter hereof and supersedes any and all written or oral agreements heretofore made, including, but not limited to, any business associate agreements previously entered into between the parties.

7.12 Notice. Any notification required in this Agreement shall be made in writing to the representative of the other Party who signed this Agreement or the person currently serving in that representative's position with the other Party.

7.13 Indemnification. Business Associate will indemnify, defend and hold harmless Covered Entity and Covered Entity's affiliates, employees and agents from and against any claim, cause of action, liability, damage, cost or expense (including costs for notification and mitigation related to Business Associate's breach of Unsecured PHI and any attorneys' fees and court proceeding costs) arising out of or relating to any use or disclosure of PHI not permitted by this Agreement, or any other breach of this Agreement, by Business Associate or its subcontractors, its agents, or any other persons or entities under the control of the Business Associate. This indemnification relates only to the obligations under this Agreement and liability related to HIPAA; it is separate and apart from any indemnification to which the parties may or may not have agreed in the Services Agreement or otherwise.

Sample County Contract

SECTION XXX - CONFLICT OF INTEREST POLICY

Cover Page for Service Provider Conflict of Interest Policy

Insert behind this page.

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Sample County Contract

SECTION XXXI - OVERDUE TAXES

Cover Page for Service Provider Overdue Tax Letter

Insert behind this page.

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Sample County Contract

SECTION XXXII - CONTRACTOR STATE CERTIFICATION

Contractor Certifications Required by North Carolina Law

The person who signs this document should read the text of the statutes listed below and consult with counsel and other knowledgeable persons before signing.

- The text of Article 2 of Chapter 64 of the North Carolina General Statutes can be found online at: http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/ByArticle/Chapter_64/Article_2.pdf
- The text of G.S. 105-164.8(b) can be found online at: http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/BySection/Chapter_105/GS_105-164.8.pdf
- The text of G.S. 143-48.5 (S.L. 2013-418, s. 2.(d)) can be found online at: <http://www.ncga.state.nc.us/Sessions/2013/Bills/House/PDF/H786v6.pdf>
- The text of G.S. 143-59.1 can be found online at: http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/BySection/Chapter_143/GS_143-59.1.pdf
- The text of G.S. 143-59.2 can be found online at: http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/BySection/Chapter_143/GS_143-59.2.pdf
- The text of G.S. 147-33.95(g) (S.L. 2013-418, s. 2.(e)) can be found online at: <http://www.ncga.state.nc.us/Sessions/2013/Bills/House/PDF/H786v6.pdf>

Certifications

- (1) **Pursuant to G.S. 143-48.5 and G.S. 147-33.95(g)**, the undersigned hereby certifies that the Contractor named below, and the Contractor's subcontractors, complies with the requirements of Article 2 of Chapter 64 of the NC General Statutes, including the requirement for each employer with more than 25 employees in North Carolina to verify the work authorization of its employees through the federal E-Verify system." E-Verify System Link: www.uscis.gov
- (2) **Pursuant to G.S. 143-59.1(b)**, the undersigned hereby certifies that the Contractor named below is not an "ineligible Contractor" as set forth in G.S. 143-59.1(a) because:
 - (a) Neither the Contractor nor any of its affiliates has refused to collect the use tax levied under Article 5 of Chapter 105 of the General Statutes on its sales delivered to North Carolina when the sales met one or more of the conditions of G.S. 105-164.8(b); **and**
 - (b) [check **one** of the following boxes]
 - ☐ Neither the Contractor nor any of its affiliates has incorporated or reincorporated in a "tax haven country" as set forth in G.S. 143-59.1(c)(2) after December 31, 2001; **or**
 - ☐ The Contractor or one of its affiliates **has** incorporated or reincorporated in a "tax haven country" as set forth in G.S. 143-59.1(c)(2) after December 31, 2001 **but** the United States is not the principal market for the public trading of the stock of the

corporation incorporated in the tax haven country.

- (3) **Pursuant to G.S. 143-59.2(b)**, the undersigned hereby certifies that none of the Contractor's officers, directors, or owners (if the Contractor is an unincorporated business entity) has been convicted of any violation of Chapter 78A of the General Statutes or the Securities Act of 1933 or the Securities Exchange Act of 1934 within 10 years immediately prior to the date of the bid solicitation.
- (4) The undersigned hereby certifies further that:
 - (a) He or she is a duly authorized representative of the Contractor named below;
 - (b) He or she is authorized to make, and does hereby make, the foregoing certifications on behalf of the Contractor; and
 - (c) He or she understands that any person who knowingly submits a false certification in response to the requirements of G.S. 143-59.1 and -59.2 shall be guilty of a Class I felony.

Sample County Contract

SECTION XXXIII - E-VERIFY DECLARATION

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, _____ (the individual attesting below), being duly authorized by and on behalf of _____ (the entity contracting with the County, hereinafter ("Service Provider")) AFFIRMS AND DECLARES as follows:

1. Service Provider understands that E-Verify is a Federal program operated by the United States Department of Homeland Security and other Federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to Federal law in accordance with NCGS §64-25(5).
2. Pursuant to NCGS §143-133.3 and NCGS § 64-26(a), any "employer" that transacts business in this State and employs 25 or more employees in this State entering into a Agreement with the County is required to verify the work eligibility status of all newly hired employees through the E-verify program.
3. Service Provider is a person, business entity, or other Service Provider that transacts business in this State and employs 25 or more employees in this State. (Check Yes or No)
 - a. ☐ YES, or
 - b. ☐ NO
4. For Service Providers who employ 25 or more employees in the State and are therefore subject E-Verify, the undersigned verifies the Service Provider's/Employer's compliance with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.
5. Service Provider's subcontractors performing work under this Agreement that employ 25 or more employees in this State must also comply with E-Verify, and Service Provider agrees that it will ensure compliance with E-Verify by any of its subcontractors used by Service Provider on this agreement that employ 25 or more employees in this State.
6. I hereby declare under penalty of perjury that the foregoing is true and correct.

This _____ day of _____, 20____.

Signature of Declarant

Print or Type Name

SECTION XXXIV- CONCLUSION

- A. It is understood and agreed that the provisions of services to the Contract shall be subject to the limitations and conditions contained in the laws, regulations, guidelines and plans cited in this Contract, and that this Contract is subject to re-negotiation or revision to meet any new or revised rules, regulations or policies that may be issued by the Federal, State or County government, or any agency thereof. In the event of any new or revised rules, regulations or policies that prohibit the continuation of this Contract, or are otherwise in conflict with any provision of this Contract or any activity hereunder, the parties shall use their best efforts during a thirty (30) day period to mutually agree to amend the Contract so as to permit its valid and legal continuation. If after such thirty (30) day period, the parties are unable to amend this Contract, the Contract shall automatically terminate.
- B. The parties agree that this Contract, with any Attachments incorporated herein, is the entire Contract between the parties with respect to its subject matter and there are no other representations, understandings, or contracts between the parties relative to such subject matter.
- C. It is expressly understood and agreed that the Services provided to eligible customers/clients/patients pursuant to this Contract shall consist exclusively of those services specified in the program description incorporated into this Contract.
- D. To the extent applicable, nothing in this Contract shall be construed as payment by either party to the other for patient referrals. Notwithstanding the anticipated effect of any of the provisions herein, neither party shall intentionally conduct itself under the terms of this Contract in a manner to constitute a violation of the Medicare and Medicaid Fraud and Abuse Provisions (42 USC 1395nn(b), 1396h(b), including the Medicare and Medicaid Anti-Fraud and Abuse Amendments of 1977 and the Medicare and Medicaid Patient and Program Protection Act of 1987 (42 USC 1320a-7 et seq.)) or any other applicable state or federal laws.

In WITNESS WHEREOF, the parties have duly executed this Contract as of the date first above written. The undersigned represent and warrant that they are authorized to bind their principals to the terms of this Contract.

Service Provider Name: _____

Service Provider Signature: _____

State of _____ County of _____

I, _____, Notary Public for _____

County certify that _____ personally

appeared before me this day and acknowledged that he/she is _____ of
(circle one) Title

_____ and by that

authority duly given and as the act of the corporation, affirmed that the information is true and correct.

Sworn to and subscribed before me this _____ day of _____, _____.

Notary Public (Official Seal)

My Commission expires _____.

CONFLICT OF INTEREST

Instructions: Each organization that chooses to use this template should take care to make changes that reflect the individual organization, put this on your letterhead which includes name and address and sign.

Conflict of Interest Defined:

A conflict of interest is defined as an actual or perceived interest by a (staff member/Board member) in an action that results in, or has the appearance of resulting in, personal, organizational, or professional gain. A conflict of interest occurs when an employee/Board member has a direct or fiduciary interest in another relationship. A conflict of interest could include:

- Ownership with a member of the Board of Directors/Trustees or an employee where one or the other has supervisory authority over the other or with a client who receives services.
- Employment of or by a member of the Board of Directors/Trustees or an employee where one or the other has supervisory authority over the other or with a client who receives services.
- Contractual relationship with a member of the Board of Directors/Trustees or an employee where one or the other has supervisory authority over the other or with a client who receives services.
- Creditor or debtor to a member of the Board of Directors/Trustees or an employee where one or the other has supervisory authority over the other or with a client who receives services.
- Consultative or consumer relationship with a member of the Board of Directors/Trustees or an employee where one or the other has supervisory authority over the other or with a client who receives services.

The definition of conflict of interest includes any bias or the appearance of bias in a decision-making process that would reflect a dual role played by a member of the organization or group. An example, for instance, might involve a person who is an employee and a Board member, or a person who is an employee and who hires family members as consultants.

Employee Responsibilities:

It is in the interest of the organization, individual staff, and Board members to strengthen trust and confidence in each other, to expedite resolution of problems, to mitigate the effect and to minimize organizational and individual stress that can be caused by a conflict of interest.

Employees are to avoid any conflict of interest, even the appearance of a conflict of interest. This organization serves the community as a whole rather than only serving a special interest group. The appearance of a conflict of interest can cause embarrassment to the organization and jeopardize the credibility of the organization. Any conflict of interest, potential conflict of interest, or the appearance of a conflict of interest is to be reported to your supervisor immediately. Employees are to maintain independence and objectivity with clients, the community, and organization. Employees are called to maintain a sense of fairness, civility, ethics and personal integrity even though law, regulation, or custom does not require them.

Acceptance of Gifts:

Employees, members of employee's immediate family, and members of the Board are prohibited from accepting gifts, money or gratuities from the following:

- a. Persons receiving benefits or services from the organization;
- b. Any person or organization performing or seeking to perform services under contract with the organization; and
- c. Persons who are otherwise in a position to benefit from the actions of any employee of the organization.

Employees may, with the prior written approval of their supervisor, receive honoraria for lectures and other such activities while on personal days, compensatory time, annual leave, or leave without pay. If the employee is acting in any official capacity, honoraria received by an employee in connection with activities relating to employment with the organization are to be paid to the organization.

Signature of Authorized Official must be the same as the person signing contract.

OVERDUE TAXES

BE SURE TO READ THE INSTRUCTIONS PRIOR TO SIGNING.

Instructions: Put the information on your letterhead which includes name and address and sign. Complete all the information in yellow. All documents requiring the signature of the authorized representative for the Service Provider must be an original signature and the same representative must sign each copy of the **Overdue Tax Letter, Conflict of Interest and Contract**.

Entity's Letterhead

[Date of Certification (mmddyyyy)]

To: Mecklenburg County

Certification:

We certify that the [insert organization's name] does not have any overdue tax debts, as defined by N.C.G.S. 105-243.1, at the federal, State, or local level. We further understand that any person who makes a false statement in violation of N.C.G.S. 143C-6-23 c is guilty of a criminal offense punishable as provided by N.C.G.S. 143C-10-1b.

Sworn Statement:

[Name of Board Chair or Authorized Official] and [Name of Second Authorizing Official if you have] being duly sworn, say that we are [Board Chair or Authorized Official] and [Title of the Second Authorizing Official], respectively, of [insert name of organization] of [City] in the State of [Name of State]; and that the foregoing certification is true, accurate and complete to the best of our knowledge and was made and subscribed by us. We also acknowledge and understand that any misuse of State funds will be reported to the appropriate authorities for further action.

Board Chair or Authorized Official

(One signature must be the same as the person signing the contract)

¹ G.S. 105-243.1 defines: Overdue tax debt. – Any part of a tax debt that remains unpaid 90 days or more after the notice of final assessment was mailed to the taxpayer. The term does not include a tax debt, however, if the taxpayer entered into an installment agreement for the tax debt under G.S. 105-237 within 90 days after the notice of final assessment was mailed and has not failed to make any payments due under the installment agreement.”